

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

ESTATE OF ANTONIO GONZALES, by and through its
its Personal Representative, Sandra Gonzales,

Plaintiff,

CASE NO. 2:21-cv-00848

v.

CITY OF WAUWATOSA, et al.,

Defendants.

ESTATE OF JAY ANDERSON, JR.
by Special Administrator, Starkeisha DeLaRosa;
J.A. minor child, through her next friend Starkeisha DeLaRosa,

Plaintiffs,

CASE NO. 2:21-cv-1179

v.

CITY OF WAUWATOSA, et al.,

Defendants.

ESTATE OF ALVIN COLE, by and through its
Special Administrator, Tracy Cole;
TRACY COLE, and ALBERT COLE,

Plaintiffs,

CASE NO. 22-cv-856

v.

CITY OF WAUWATOSA, et al.,

Defendants.

**DECLARATION OF ATTORNEY JASMYNE BAYNARD IN SUPPORT OF DEFENDANTS
CIVIL L.R. 7(H) MOTION TO EXTEND TIME TO FILE FORMAL ANSWER TO
AMENDED COMPLAINTS (ECFS 20 and 47)**

Jasmyne M. Baynard, being first duly sworn under oath, declares and states as follows:

1. I am an attorney with Wirth + Baynard, licensed to practice law in the State of Wisconsin, and represent the Defendants in this lawsuit. I make this Declaration based upon my personal knowledge.

2. I am the primary attorney handling three cases—*Estate of Antonio Gonzales v. City of Wauwatosa, et al.*, (Eastern District Case No. 21-cv-0848) filed on July 15, 2021; *Estate of Jay Anderson Jr. v. City of Wauwatosa, et al.*, (Eastern District Case No. 21-cv-01179) filed on October 13, 2021; and *Estate of Alvin Cole v. City of Wauwatosa, et al.*, (Eastern District Case No. 22-cv-00856) filed on July 28, 2022—which were consolidated under Case Number 21-cv-0848 on September 21, 2022. (ECF 34)

3. I timely answered the complaint in the Estate of Antonio Gonzales, the initial complaint in the Estate of Jay Anderson, and moved to dismiss the initial complaint in the Estate of Alvin Cole.

4. On August 24, 2022, the Estate of Jay Anderson filed an amended complaint (21-cv-01179, ECF 47) and on October 21, 2022, the Estate of Alvin Cole (22-cv-00856, ECF 20) filed an amended complaint, which Defendants timely moved to dismiss.

5. After moving to dismiss the amended complaints in the Estate of Anderson, defendants responded to numerous discovery requests, which included preparing responses to Plaintiffs' First Request for Admissions in the Estate of Alvin Cole on or about December 21, 2022. A copy of which is attached hereto as **Exhibit A**. Many of the allegations contained therein mirrored the allegations contained in the Amended Complaint.

6. On April 11, 2023, the Court entered an Order granting in part Defendants' motions to dismiss the Amended Complaints in the Estate of Jay Anderson Jr., and the Estate of Alvin Cole. (ECF 54)

7. Draft answers were prepared, but unfortunately, through inadvertence and excusable neglect were not filed.

8. On May 1, 2023, Defendants' counsel started a week-long civil trial in the Eastern District of Wisconsin, before Judge Joseph, and the trial involved approximately 50 Plaintiffs as well as some of the same attorneys representing the Plaintiffs in this matter. At that same time, the formal Answers to the Amended Complaints in this case became due as Defendants' counsel was in final preparation for that trial.

9. After coordinating with Plaintiffs on a briefing schedule, Defendants moved for summary judgment seeking dismissal of all three cases on the merits and the basis of qualified immunity. (ECFS 69, 78, 82)

10. On August 22, 2023, at approximately 4:00 p.m., Plaintiffs filed responses to Defendants' Summary Judgment Motions in the Estate of Jay Anderson Jr. (ECF 90) and the Estate of Alvin Cole (ECF 94). In their response, Plaintiffs raised, for the first time, a defense to summary judgment that Defendants had not filed formal Answers to the Amended Complaints.

11. My review of those responses on the morning of August 23, 2023, was the first time that our office learned answers to the amended complaints in the Anderson and Cole cases were not filed. As soon as my office became aware of the failure to file answers to the Amended Complaints in the Anderson and Cole matters, Defense Counsel acted diligently and in good faith to immediately rectify the issue by filing the Motion to Enlarge time that this Declaration supports.

12. Attached hereto and **Baynard Exhibit B** is the Defendants' Answer to the Amended Complaints in *Estate of Jay Anderson Jr. v. City of Wauwatosa, et al.*, (Eastern District Case No. 21-cv-01179, ECF 47) and **Baynard Exhibit C** in *Estate of Alvin Cole v. City of Wauwatosa, et al.*, (Eastern District Case No. 22-cv-00856, ECF 20).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated this 25th day of August 2023.

/s/ Jasmyne M. Baynard
Jasmyne M. Baynard,